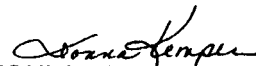


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 REGULATIONS COMPILER

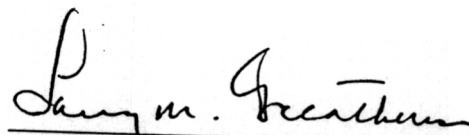
STATEMENT OF EMERGENCY  
803 KAR 25:125E  
Computation of Attorney Fee in Award of Retraining  
Incentive Benefits Pursuant to KRS 342.732(1)(a) and  
Interim Attorney Fee Motions

(1) The Department of Workers Claims must promulgate this administrative regulation by emergency to comply with statutory mandates passed in the 2002 Legislative Session in KRS 342.732 and 342.792. This new regulation sets forth specific procedures for setting an attorney fee for a claim in which retraining incentive benefits have been awarded. It is imperative to have this administrative regulation filed as an emergency to provide adequate attorney's fees so that claimants can get full use of the retraining.

(2) This emergency regulation will be followed by an ordinary administrative regulation.

  
PAUL E. PATTON, GOVERNOR

5-13-03  
DATE

  
LARRY GREATHOUSE, COMMISSIONER  
DEPARTMENT OF WORKERS CLAIMS

5-12-03  
DATE

1     **LABOR CABINET**

2     **Department of Workers' Claims**

3     **(Emergency)**

4     **803 KAR 25:125E. Computation of Attorney Fee in Award of Retraining Incentive**  
5     **Benefits Pursuant to KRS 342.732(1)(a) and Interim Attorney Fee Motions.**

6         RELATES TO: KRS 342.040; KRS 342.320; KRS 342.732(1)(a)

7         STATUTORY AUTHORITY: KRS 340.260

8         NECESSITY, FUNCTION AND CONFORMITY: The Commissioner is required to  
9     promulgate administrative regulation necessary to implement the provisions of KRS  
10    Chapter 342 pursuant to KRS 342.260(1); KRS 342.270(3) requires that the  
11    Commissioner promulgate administrative regulation procedures for the resolution of  
12    claims. KRS 342.732 and KRS 342.792 set forth the requirements for retraining  
13    incentive benefits. In order to process these claims for retraining incentive benefits, the  
14    Commissioner must promulgate administrative regulations to assist with the claims  
15    process and allow claimants to obtain appropriate legal assistance from an attorney.

16         Section 1.(1) Awards for an attorney fee involving retraining incentive benefits shall  
17    be made in accordance with KRS 342.320 and KRS 342.040.

18         (2) If benefits are awarded for retraining pursuant to KRS 342.732(1)(a), an  
19    attorney shall file a motion to request an attorney's fee.

20         (3) Interim attorneys fees shall only be paid upon the review and order of an  
21    administrative law judge.

1 (4)(a) Interim attorney fee motions shall be filed not less than six (6) months from  
2 the time the claimant is enrolled in a bona fide retraining program or GED program, and

3 (b) Interim attorney fee motions may be filed:

4 1. at six (6) months intervals following the first order for interim attorney fee,

5 2. at the completion of training, or

6 3. upon termination from the program.

7 Section 2.(1) A value shall be placed on the award, and an attorney fee shall be  
8 awarded if the claimant:

9 (a) is enrolled and has been accepted in a bona fide training program or GED  
10 program, and

11 (b) does not defer the beginning of benefits pursuant to KRS 342.732(1)(a)5.

12 (2) If the claimant has enrolled in a bona fide retraining program or GED program,  
13 the value of the award shall be based upon the number of weeks completed at the time  
14 the interim attorney fee motion is filed.

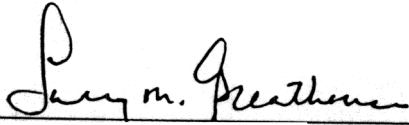
15 (3)(a) Any value computed for an attorney fee shall be limited to the number of  
16 weeks of the program completed multiplied by the weekly benefits paid to the claimant.

17 (b) Costs of tuition, books, completion bonus and moving expenses shall not be  
18 considered as part of the benefits in computing the attorney fee.

19 (4) An original award for retraining pursuant to KRS 342.732(1)(a) shall direct the  
20 employer and its insurance carrier or Coal Workers' Pneumoconiosis Fund (CWPF), in  
21 claims brought under KRS 342.792, to withhold a specified amount or percentage from  
22 each benefit payment in accordance with the percentage limitations specified in KRS  
23 342.320(2)(a).

1       (5) All interim fees awarded by an administrative law judge as specified in  
2 subsection 4 of this section, shall be paid directly to the attorney in a lump sum by the  
3 employer or its insurance carrier or CWPF, subject to the percentage limitations  
4 specified in KRS 342.320(2)(a).

5       (6) If the amount withheld by the employer and/or its insurance carrier or CWPF, as  
6 required in subsection 4 of this section is greater than the amount of the attorney fee for  
7 the interim period, the excess amount shall be paid to the claimant.



Larry M. Greathouse, Commissioner  
Kentucky Department of Workers Claims

5-12-03

Date

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